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SERVICE DATE - DECEMBER 21, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-103 (Sub-No. 11X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY—ABANDONMENT  
EXEMPTION—IN HEMPSTEAD, LAFAYETTE AND COLUMBIA COUNTIES, AR

Decided: December 18, 2001

The Kansas City Southern Railway Company (KCS) filed a notice of exemption under 49 CFR 1152.50 to abandon 42.78 miles of railroad between milepost 4.00 at or near Hope, and milepost 46.78 at the Arkansas-Louisiana State Line, in Hempstead, Lafayette and Columbia Counties, AR. Notice of the exemption was served and published in the Federal Register on June 4, 1997 (62 FR 30667). On July 3, 1997, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding to implement interim trail use or rail banking for the entire line under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and provided a 180-day period for KCS to negotiate an agreement with the National Salvage & Service Corp. (NS&S).<sup>1</sup> On January 9, 1998, the Board issued a second NITU that authorized a 180-day period for the Director of Parks, Recreation and Tourism for the City of Hope, AR (HPRT) to negotiate an interim trail use/rail banking agreement with KCS for the right-of-way.<sup>2</sup> At the request of HPRT, and with KCS's consent, the negotiation period was extended several times; the latest extension is scheduled to expire on December 22, 2001.<sup>3</sup>

On December 5, 2001, KCS advised the Board that it and Melonvine Striders Running Club (MSRC) have reached an interim trail use/rail banking agreement for the right-of-way, and that MSRC has agreed to replace HPRT as the new trail user. KCS also stated that MSRC

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<sup>1</sup> NS&S submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking pursuant to the Trails Act and 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation of rail service. On June 27, 1997, KCS indicated its willingness to negotiate with NS&S for interim trail use.

<sup>2</sup> HPRT submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking pursuant to the Trails Act and 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation of rail service. On December 24, 1998, KCS indicated its willingness to negotiate with HPRT for interim trail use.

<sup>3</sup> The negotiating period under the NITU was extended by decisions served July 20, 1998, January 6, 1999, June 11, 1999, January 12, 2000, August 4, 2000, December 1, 2000, and June 21, 2001.

agreed to assume HPRT's financial responsibility under the NITU. By letter filed December 14, 2001, MSRC submitted a statement of willingness to assume financial responsibility which conforms to the requirements for implementing 16 U.S.C. 1247(d), as set forth in 49 CFR 1152.29.

MSRC has made the required showing under 49 CFR 1152.29(f) for the substitution of interim trail user. Accordingly, MSRC's request will be granted.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. A replacement NITU applicable to MSRC as interim trail user is issued, effective on the service date of this decision.
3. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed, against the right-of-way.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.
5. If the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
6. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary